

NEVADA TAX COMMISSION MEETING
MINUTES

March 6, 2023
9:00 a.m.

Members Present:

Tony Wren, Chairman
Ann Bersi, Commissioner
Francine Lipman, Commissioner
Jeff Rodefer, Commissioner
Randy Brown, Commissioner
H. Stan Johnson, Commissioner
Sharon Byram, Commissioner
Craig Witt, Commissioner

Chairman Wren called the meeting to order.

I. Public Comment.

George Hritz, with the Nevada Taxpayer's Association, commented on agenda Item VII. B. regarding Governor Lombardo's Executive Order 2023-003 requiring comprehensive review of the existing regulations. Mr. Hritz stated that he is here to offer the assistance of the Nevada Taxpayer's Association. Once the list has been created, I'm more than happy to share it with the members for any additional input or thoughts. Thank you for your time and your hard work.

Director Hughes administered an oath to all parties testifying.

II. Meeting Minutes:

A. Consideration for Approval of the January 23, 2023, Nevada Tax Commission Meeting Minutes.

Commissioner Byram stated a correction was needed on Page 3, Section IV. A. The word "restraints" should be replaced with "constraints" and the dates should read 2021/22 and 2018/19. Commissioner Byram made a motion to approve the minutes as amended. Commissioner Witt seconded the motion. All in favor. Motion carries.

III. CONSENT CALENDAR:

A. Matters of General Concern:

- 1) Bonds Administratively Waived (dates as indicated) (Sales/Use Tax):
 - a) ALopez Taqueria LLC
 - b) Decorative Concrete Supply LLC
 - c) Durango Taco Shop LLC
 - d) Heritage Inn & Suites of Las Vegas LLC
 - e) Heritage Inn 2 of Las Vegas LLC
 - f) Heritage Inn of Las Vegas LLC
 - g) TP Heritage Inn of Las Vegas LLC
 - h) Yangar Foods LLC
 - i) Yangar Foods Unlimited LLC

- B. Waiver of Penalty and Interest Pursuant to a Request on a Voluntary Disclosure:
 - 1) Boiseries Perfectart Inc
 - 2) Hobby Search
 - 3) InCharge Energy Inc
 - 4) Magnaflow
 - 5) Maptek
 - 6) OOBЕ Apparel Design Group
 - 7) Princess Polly USA
 - 8) Score Sports
 - 9) Segway
 - 10) Synergiee
 - 11) Topcon Medical Systems Inc.
 - 12) Trish Scully
 - 13) YMI Jeanswear Inc.

- C. Waiver of Penalty and/or Interest Pursuant to NRS 360.419 that exceeds \$10,000:
 - 1) Pavestone LLC
 - 2) Absolute Exhibits Inc.
 - 3) Horiba Instruments, Inc.
 - 4) Subway Nevada LLC

- D. Department’s Recommendation to the Commission for Approval of an Offer-In-Compromise pursuant to NRS 360.263:
 - 1) Wan Shun LV and Cui Dong Zhu
 - 2) Alban Dema
 - 3) Hannah An

Commissioner Brown pulled Item III. B. 11) Topcon Medical Systems Inc. for further discussion.

Commissioner Rodefer pulled Item III. C. 1) Pavestone LLC for further discussion.

Commissioner Byram made a motion to approve the consent calendar with the exceptions of III. B. 11) and III. C. 1). Commissioner Brown seconded the motion. All in favor. Motion carries.

Item III. B. 11) Topcon Medical Systems Inc. – Commissioner Brown asked about the amount owed and stated that on the letter from the Department, on Page 117 of the packet, it states the amount owed is \$23,998.12, but on Page 119, on the Taxpayer’s letter to the Department, it states the amount owed as \$44,767.00. Karyn Ebright was present on behalf of the Department. Ms. Ebright stated the Taxpayer over-estimated the tax owed. The actual tax owed is \$23,998.12. Commissioner Brown made a motion to approve. Commissioner Byram seconded the motion. All in favor. Motion carries.

Item III. C. 1) Pavestone LLC - Commissioner Rodefer Commented that it appears that the Taxpayer’s issues were largely their own creation and he asked if the Department is satisfied with the new controls that the Taxpayer has put in place. Jan Vrankic, Audit Supervisor, was present on behalf of the Department and stated the auditor is satisfied with the controls that are in place. Guy Childers, Audit Tax Manager, was present on behalf of the Department, and stated the Department believes that the audit has served its purpose. Commissioner Rodefer made a motion to approve. Commissioner Byram seconded the motion. All in favor. Motion carries.

IV. LOCAL GOVERNMENT SERVICES DIVISION:

- A. Discussion and Consideration for Granting a Waiver to remain on Guaranteed Status for Supplemental City-County Relief Tax pursuant to NRS 377.057(2):

1) Lander County

Mary Meyers, Management Analyst II, was present on behalf of the Nevada Department of Taxation. Bartolo Ramos, Lander County Manager, was present on behalf of Lander County. Commissioner Byram asked if stick built housing is being built near the freeway. Mr. Ramos stated there has been more stick built housing being built around the golf course during the last five years. He also stated, eight miles of water main lines have been installed with a few crossing under the freeway, the County has put in miles of paved roads and they are trying to shrink the floodplain by building a bigger levy. Commissioner Byram made a motion for Lander County to remain on guaranteed status. Commissioner Lipman seconded the motion. All in favor. Motion carries.

2) Pershing County

Mary Meyers, Management Analyst II, was present on behalf of the Nevada Department of Taxation. A representative for Pershing County was not in attendance.

3) White Pine County

Mary Meyers, Management Analyst II, was present on behalf of the Nevada Department of Taxation. James Beecher and Kathy Workman were present on behalf of White Pine County. Mr. Beecher stated White Pine County has similar mining issues where a lot of taxable sales come directly from the mine. In 2016, copper prices went down and the County still had more collections than distributions. In 2016, the mining industry didn't have to contract to the point where it affected ongoing operations, but this is an example of a dip in taxable collections. A courthouse was built over a few years for the price of \$34 million dollars. The sprinkler system in the jail had to be overhauled for \$100,000. White Pine County is trying to diversify its economy. A hemp farm is trying to get licensing to grow cannabis. The County is trying to develop more housing. A parcel of county land was sold for \$100 to a developer to build around nine stick built houses; and another parcel was sold for \$6,000 to build four stick built houses near the hospital because the County is trying to attract doctors to the area.

Commissioner Byram made a motion for White Pine County to remain on guaranteed status and then withdrew her motion. Commissioner Byram made a motion for both Pershing County and White Pine County to remain on guaranteed status. Commissioner Witt seconded the motion. All in favor. Motion carries. Chairman Wren asked that the Department ask for additional information from the counties next year and that the counties provide information relating to infrastructure and other projects that are being done.

B. Review and Consideration for Approval of the 2024-2025 Assessor's Handbook of Rural Building Costs, as authorized under NAC 361.128

Cheryl Erskine, Coordinator – Assessment Standards, was present on behalf of the Department. Commissioner Witt made a motion to approve the 2024-2025 Assessor's Handbook of Rural Building Costs. Commissioner Byram seconded the motion. All in favor. Motion carries.

C. Review and Consideration for Approval of Exemption(s) as authorized under NRS 361.068(2) where Administrative Costs Exceed Revenue from Tax on Personal Property

Victoria Salas, Property Appraiser II, was present on behalf of the Department. Commissioner Brown made a motion to approve exemptions as authorized under NRS 361.068 where administrative costs exceed revenue from tax on personal property. Commissioner Lipman seconded the motion. All in favor. Motion carries.

- D. Consideration for Approval of a Appointment to the Appraiser Certification Board:
1) Lorna Quisenberry

Jeffrey Mitchell, Deputy Executive Director, and Lorna Quisenberry, Property Appraiser II, were present on behalf of the Department. Commissioner Brown made a motion to approve the appointment of Lorna Quisenberry to the Appraiser Certification Board. Commissioner Witt seconded the motion. All in favor. Motion carries.

V. COMPLIANCE DIVISION:

- A. Approval of Refund/Credit Request in Excess of \$250,000:
1) Atalaya Equipment Leasing Fund I LP

Guy Childers, Audit Tax Manager, was present on behalf of the Department. Commissioner Byram made a motion to approve the refund/credit of Atalaya Equipment Leasing Fund I LP. Commissioner Lipman seconded the motion. All in favor. Motion carries.

- 2) Howard & Howard Attorneys PLLC

Guy Childers, Audit Tax Manager, was present on behalf of the Department. Commissioner Byram made a motion to approve the refund/credit of Howard & Howard Attorneys PLLC. Commissioner Witt seconded the motion. All in favor Motion carries.

- 3) Ferguson Enterprises LLC

Guy Childers, Audit Tax Manager, was present on behalf of the Department. Commissioner Witt made a motion to approve the refund/credit of Ferguson Enterprises LLC. Commissioner Rodefer seconded the motion. All in favor. Motion carries.

- B. Taxpayer's Appeal of Administrative Law Judge's Decision pursuant to NRS 360.245 and NAC 360.175:
1) Ryan S. Kay dba Mobile Auto Cares

Michael Viets, Deputy Attorney General, was present on behalf of the Department. The Taxpayer was not in attendance. Commissioner Brown made a motion to deny the Taxpayer's appeal. Commissioner Witt seconded the motion. All in favor. Motion carries.

- 2) Solace Enterprises LLP

Natasha Gebrael, Deputy Attorney General, was present on behalf of the Department. Jeff Barr and Alicia Ashcroft, with law firm of Armstrong Teasdale, were present on behalf of Solace Enterprises LLP. Commissioner Byram made a motion to uphold the Administrative Law Judge's Decision with the exception of the reversal of the redetermination tax amount, and to adjust the tax amount to \$70,000, if agreed by the parties and paid within thirty days; and if not, they may reapproach the Commission. Commissioner Byram withdrew her motion. Commissioner Byram made a motion to uphold the Administrative Law Judge's Decision, with the exception of the reversal of the adjustment that was made to a Petition for Redetermination, and further adjust the payment amount due to \$70,000 payable within thirty days of this decision. Commissioner Witt seconded the motion. All in favor. Motion carries.

- 3) Ferdinand Dalope for the debts of Ciao Foods International LLC dba Ciao Pizzeria

Natasha Gebrael, Deputy Attorney General, was present on behalf of the Department. A representative for the Taxpayer was not present. Commissioner Witt made a motion to uphold the Administrative Law Judge's Decision. Commissioner Byram seconded the motion. All in favor. Motion carries.

- C. Petition for Reconsideration of Department's Denial of Exemption Status for Organization Created for Religious, Charitable or Educational Purposes pursuant to NRS 372.3261 (Sales/Use Tax):
 - 1) Ariana Rye Foundation

Richard Yien, Deputy Attorney General, was present on behalf of the Department. Jason Taylor was present on behalf of Ariana Rye Foundation. Commissioner Byram made a motion to uphold the denial of exemption status for Ariana Rye Foundation. Commissioner Lipman seconded the motion. All in favor. Motion carries.

- D. Consideration of whether or not to appeal the Order reversing the denial of request for exemption from Nevada Sales and Use Tax:
 - 1) Orthopaedic Summit Association Inc. v. Nevada Department of Taxation; Nevada Tax Commission, First Judicial District Court Case No. 22 OC 00033 1B

Commissioner Byram made a motion that the Commission decline to appeal the Order reversing the denial of request for exemption from Nevada Sales and Use Tax. Commissioner Bersi seconded the motion. All in favor. Motion carries.

VI. INFORMATIONAL ITEMS:

- A. Penalty and Interest Waivers granted by the Department for Sales/Use Tax, Modified Business Tax and Excise Tax (dates as indicated).
- B. Approval and Denial Status Report Log for Organizations Created for Religious, Charitable or Educational Purposes (dates as indicated) (Sales/Use Tax Exemption).

There were no questions from the Commission.

VII. BRIEFING:

- A. Briefing to/from the Commission and the Executive Director.

Shellie Hughes, Executive Director, reported the 2023 legislative session is underway and the Department has been very busy. We have already made six presentations. On the morning of February 9th we presented our budget to the Joint Committee on Assembly Ways and Means and Senate Finance. Later that same day, we had two other presentations about the Department. On February 14th we presented a sales and use tax overview to the Senate Committee on Revenue and Economic Development, and we also presented Senate Bill 50 to the Committee. On February 23rd we presented Senate Bill 29 to the Senate Committee on Revenue and Economic Development, and then this Thursday, March 9th, there will be a work session on Senate Bill 50 in the Senate Committee on Revenue and Economic Development. Director Hughes also provided the Commission with an update on the Department's modernization project which is Project MYNT or Modernize Your Nevada Tax. The Department has been working on finalizing our RFP for our vendor for an integrated tax system, and it's our plan to release that RFP at the end of this month.

- B. Discuss Department's plan to address Governor Lombardo's Executive Order 2023-003 requiring Executive Branch agencies to freeze issuance of new regulations, conduct a comprehensive review of existing regulations, and prepare a report to the Governor's Office by May 1, 2023, recommending at least 10 regulations for removal and any other regulations that can be streamlined, clarified, reduced or otherwise improved.

Yvonne Nevarez-Goodson, Chief Deputy Executive Director for the Department, stated she would like to provide information regarding the Department's plan to address the Governor's Executive Order regarding regulations. Specifically, the Governor's Executive Order requires all executive branch agencies, boards and commissions to review all of the regulations within their jurisdiction, to consider whether the regulations are outdated, result in unintended consequences, create conflicts or impose an unnecessary burden on citizens, businesses or governmental entities. This regulatory review is intended to identify and otherwise repeal, streamline or clarify provisions to emphasize the economic potential of the State. The executive order further requires every executive branch, department, board and commission to prepare a report by May 1, 2023, detailing how their regulations can be streamlined, clarified or repealed, including a list of not less than ten regulations recommended for removal. This executive order requires each agency and/or board and commission to hold a public hearing after a public notice consistent with the requirements of NRS Chapter 233B. As it relates to the Nevada Tax Commission (NTC), the Department has identified multiple chapters, as many as 26 chapters of the Nevada Administrative Code that include numerous sections of the Nevada Administrative Code that include our regulations adopted by and under the jurisdiction of the NTC. Accordingly, this is a substantial project being undertaken by the Department to review all of the regulations within these chapters to make a recommendation to commission. Moreover, the Department is staffed with four other executive branch boards and commissions, two of which also have regulations within their respective jurisdiction and similarly will require those boards to hold a public hearing and prepare a similar report. These boards include the Committee on Local Government Finance, which is responsible for Chapters 350 and 354 of the Nevada Administrative Code, and the State Board of Equalization, which adopts various provisions within NAC Chapter 361. The Department's approach has consisted of the development of a comprehensive Excel workbook that identifies every regulation within every chapter under our jurisdiction. The Department has assigned all of these sections of NAC to subject matter experts within the Department who are reviewing the existing regulations to make recommendations back to the executive team and myself as Chief Deputy, who will be responsible for writing up this report. I would be remiss of course not to recognize the efforts of Sarah Glazner, who has undertaken the development of this comprehensive workbook so that our Department experts may access this language and links to all of the provisions in order to make the recommendations, in particular, in such a short time frame. Upon receipt of staff recommendation, I will in turn prepare 15-day notices of workshop and 30-day notices of public hearings for the NTC, the Committee on Local Government Finance, and the State Board of Equalization. These notices will be provided to the stakeholders who have requested to be included on our mailing lists as well as to all members of the public. Although the executive order does not expressly require workshops in addition to public hearings, it encourages stakeholder involvement, and several stakeholders have requested the opportunity to present recommendations and provide feedback to the Department. Accordingly, Executive Director Hughes has recommended an offer to hold these public workshops to better provide access to the public and the stakeholders to review and vet these matters before they are recommended back to the boards for their approval. Please note this process will not automatically result in regulatory changes. Instead, this is a report to identify recommendations to the Governor's Office. We do not yet have specific direction from the Governor's Office regarding further mandates that may derive from this report. Any formal regulatory changes would require compliance with the provisions of NRS Chapter 233B which require at a minimum that agencies provide proposed language to the Legislative Council Bureau for amending, repealing or adding changes to the Nevada Administrative Code, providing LCB's proposed draft language to the public for workshops and public hearings for adoptions by the agency boards or commission, and

then any such adopted regulations must also be approved by the Legislative Commission. So this process is not that formal adoption of regulations. It will simply be a recommendation from the Department up to the Commission as to what we'll propose for recommended changes to the Governor's Office. The NTC may also have questions about proposed regulations that have already been workshopped and/or prepared by the LCB for that language. This executive order has frozen all such proposed regulations pending specific approval by the Governor's Office which may be granted under certain exemptions such as regulations that affect public health, safety, and security, are necessary in the pursuit of federal funds or certification, affect the application of powers, functions and duties essential to the operation of the executive branch agency, board or commission, or affect pending judicial deadlines or are necessary to comply with federal law. The pending regulations that the NTC has under review will be included within the Department's overall review and report and recommendation back to this Board. The Department will make recommendations to the NTC for any existing regulations that may qualify for an exemption to pursue adoption. Again, that will be subject to approval by the Governor's Office. The NTC will hold a special meeting on April 21st to consider and approve the Department's recommendations to the Governor's Office for the mandatory report to be filed on May 1st. The Department's staff experts have been asked to provide these recommendations by March 10th so that the 15-day notice of workshop and 30-day notice of public hearing may be posted timely for this special meeting. The date for the workshop for the NTC regulations has not yet been confirmed, but it will be determined for the next two weeks depending on the recommendations from staff. The Department will similarly be undertaking this process for the Committee on Local Government Finance as well as the State Board of Equalization. The dates have yet to be confirmed for those workshops and public hearings.

VIII. Next Meeting Dates: April 21, 2023 and May 1, 2023

IX. Public Comment.

There was no public comment.

X. Items for Future Agendas.

No items were discussed.

XI. Meeting adjourned at 12:09 p.m.